



RECEIVED
JUL 31 2025

BY: JAM
TIME: 9:45

Republic of the Philippines
Supreme Court
Manila

EN BANC

ALFONSO PATOTOY y CENTENO @
"NONOY,"

G.R. No. 257910

Petitioner,

Present:

GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO,
LOPEZ, J.,
DIMAAMPAO,*
MARQUEZ,
KHO, JR., and
SINGH, JJ.**

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

March 4, 2025

X-----

DECISION

LOPEZ, J., J.:

This Court resolves the Petition for Review on *Certiorari*¹ filed by Alfonso C. Patotoy (Patotoy), seeking to reverse and set aside the Decision²

* No part.

** On leave.

¹ *Rollo*, pp. 12-32.

² *Id.* at 34-45. The October 30, 2020 Decision in CA-G.R. C.R. No. 43233 was penned by Associate Justice Zenaida T. Galapate-Laguilles and concurred in by Associate Justices Japar B. Dimaampao (now

and the Resolution³ of the Court of Appeals (CA), affirming the Decision⁴ of the Regional Trial Court (RTC), which found Patotoy guilty beyond reasonable doubt of violation of Section 28(a), in relation to Section 28(e)(1), of Republic Act No. 10591.⁵

The instant case stemmed from an Information⁶ charging Patotoy with illegal possession of firearm and ammunition, the accusatory portion of which reads:

That on or about April 9, 2018, in the City of Manila, Philippines, the said accused, did then and there willfully, unlawfully, and unknowingly have in his possession and under his custody and control one (1) .38 caliber firearms (sic) with five (5) live ammunitions marked as “APC1,” “APC2,” “APC3,” “APC4,” and “APC5,” without first having secured from the proper authorities the necessary license/permit thereof.

CONTRARY TO LAW.⁷

Upon arraignment, Patotoy, duly assisted by counsel, pleaded not guilty to the offense charged. During the pre-trial, the parties stipulated on the identity of the accused and that the latter had undergone inquest proceedings promptly after being apprehended.⁸ Afterwards, trial on the merits ensued.

The prosecution presented the following witnesses: Police Officers III Jayson Tan (PO3 Tan), Romeo Palma, Jr. (PO3 Palma), Police Officer I Elizardo Reputas (PO1 Reputas), and Police Chief Inspector Cristina Guiang Macagba (PCINSP Macagba).

The prosecution narrated that on April 9, 2018, at approximately 5:00 p.m., PO3 Tan and PO1 Reputas were implementing an anti-criminality

a member of this Court) and Florencio M. Mamauag, Jr. of the Third Division, Court of Appeals, Manila.

³ *Id.* at 47–53. The October 26, 2021 Resolution in CA-G.R. CR No. 43233 was penned by Associate Justice Zenaida T. Galapate-Laguilles and concurred in by Associate Justices Florencio M. Mamauag, Jr. and Angelene Mary W. Quirino-Sale of the Special Former Third Division, Court of Appeals, Manila.

⁴ *Id.* at 67–75. The March 29, 2019 Decision in Crim. Case No. R-MNL-18-03688-CR was penned by Presiding Judge Jean Marie A. Bacorro-Villena of Branch 28, Regional Trial Court, Manila.

⁵ Republic Act No. 10591 (2013), sec. 28(a) & 28(e)(1), Comprehensive Firearms and Ammunition Regulation Act.

Section. 28. *Unlawful Acquisition, or Possession of Firearms and Ammunition.* – The unlawful acquisition, possession of firearms and ammunition shall be penalized as follows:

(a) The penalty of *prision mayor* in its medium period shall be imposed upon any person who shall unlawfully acquire or possess a small arm;

....

(e) The penalty of one (1) degree higher than that provided in paragraphs (a) to (c) in this section shall be imposed upon any person who shall unlawfully possess any firearm under any or combination of the following conditions:

(1) Loaded with ammunition or inserted with a loaded magazine[.]

⁶ RTC records, p. 1.

⁷ *Id.*

⁸ *Id.* at 30.

campaign along Hermosa Street, Tondo, Manila. During their patrol, they chanced upon Patotoy drinking from a 500-milliliter bottle of Red Horse beer near the railroad tracks.⁹

PO3 Tan and PO1 Reputas then approached Patotoy and notified him of his violation of Manila City Ordinance No. 5555,¹⁰ which prohibits the consumption of alcoholic drinks in public places.¹¹ Notably, he was informed of his rights prior to his apprehension.¹² Following this, PO3 Tan seized the Red Horse bottle and returned to the police station to mark the bottle.¹³

Meanwhile, PO1 Reputas frisked Patotoy and discovered an object protruding on the right side of his waist.¹⁴ PO1 Reputas then ordered Patotoy to raise his shirt, which later revealed a firearm. PO1 Reputas also discovered that the firearm contained five live bullets and immediately extracted these. After that, PO1 Reputas informed Patotoy, once again, of the latter's violations, as well as his constitutional rights.¹⁵

When PO3 Tan came back to the scene, PO1 Reputas informed him of the confiscation of a .38 caliber pistol and five live bullets from Patotoy. From then on, PO3 Tan and PO1 Reputas escorted Patotoy to the *Ospital ng Tondo* for a medical examination to determine his alcohol intake. The medical result, as reflected in the April 9, 2018 Commitment Certificate,¹⁶ indicated that Patotoy had tested positive on the alcohol breath test.¹⁷

Upon their arrival at Police Station 7, PO3 Tan and PO1 Reputas turned over Patotoy and the seized evidence to the investigator-on-duty, PO3 Palma. PO1 Reputas marked the firearm with "APC" and the five live bullets with "APC-1" to "APC-5."¹⁸ PO3 Tan, on the other hand, labeled the Red Horse bottle as "APC-6," and also took photos of the pieces of evidence.¹⁹ Afterwards, PO3 Palma proceeded to prepare the Judicial Affidavit of Apprehension,²⁰ Booking Sheet and Arrest Report,²¹ Memorandum Request

⁹ TSN, PO3 Jayson Tan, July 23, 2018, pp. 7-10; TSN, PO1 Elizardo Reputas, September 10, 2018, pp. 5-6.

¹⁰ An Ordinance Amending Ordinance No. 4153, Specifically Sections 1 and 4 Thereof, Relative to the Prohibition Against Serving of Beer, Liquor or Alcoholic Beverages of Any Kind in Certain Places, By Prohibiting Also The Act of Selling; Increasing the Penalty Provided Therein; and For Other Purposes (1966).

¹¹ *Rollo*, pp. 190-191.

¹² TSN, PO1 Elizardo Reputas, September 10, 2018, pp. 5-6.

¹³ TSN, PO3 Jayson Tan, July 23, 2018, pp. 10, 17; TSN, PO1 Elizardo Reputas, September 10, 2018, p. 6.

¹⁴ RTC records, p. 14.

¹⁵ TSN, PO1 Elizardo Reputas, September 10, 2018, pp. 6-7.

¹⁶ RTC records, p. 7.

¹⁷ *Id.* at 4-5; TSN, PO3 Jayson Tan, July 23, 2018, pp. 10-11; TSN, PO1 Elizardo Reputas, September 10, 2018, p. 7.

¹⁸ TSN, PO1 Elizardo Reputas, September 10, 2018, p. 7.

¹⁹ TSN, PO3 Jayson Tan, July 23, 2018, pp. 10-11.

²⁰ RTC records, pp. 4-5.

²¹ *Id.* at 6.

for Record Verification,²² and the Request for Ballistic Examination.²³ The case was later forwarded to the Manila City Prosecutor's Office for inquest proceedings.²⁴

PO1 Reputas subsequently delivered the Request for Ballistic Examination, along with the confiscated .38 caliber pistol and ammunition, to PCINSP Macagba, who then examined the seized evidence. On April 13, 2018, PCINSP Macagba issued Firearms Identification Report No. FAIS-150-2018,²⁵ which stated that the .38 caliber pistol recovered from Patotoy was capable of loading and firing bullets, with all the required components present.

On June 8, 2018, the Philippine National Police (PNP) Firearms and Explosives Office (FEO) issued a Certification²⁶ stating that Patotoy was not registered as a licensed firearm holder of any kind or caliber and had no authority to possess the same under their records.

As the trial progressed, additional stipulations were made leading to the dispensation of the testimonies of PCINSP Macagba and PO3 Palma.

For PCINSP Macagba, it was stipulated that: (1) she was a police officer with the rank of police chief inspector; (2) she was assigned to the Manila Police District Crime Laboratory; (3) in the course of her duty on April 10, 2018, she received the Request for Ballistic Examination and .38 caliber firearm with five live ammunition with markings "APC," "APC-1" to "APC-5," respectively, from PO1 Reputas; (4) after the receipt and examination of the transmitted items, she reduced the result of her examination in writing, with Firearms Identification Report No. FAIS-150-2018, which she signed; (5) she concluded that the firearm is functional and serviceable; and (6) she has no personal knowledge of the incident complained of and the alleged recovery of the firearm from the accused.²⁷

As for PO3 Palma, it was stipulated that: (1) he was the investigator-on-duty; (2) in the course of his investigation, he prepared the Judicial Affidavit of Apprehension, Booking Sheet and Arrest Report, Request for Record Verification, and Request for Ballistic Examination; (3) the Commitment Certificate was turned over to him; (4) he took photographs of the Red Horse bottle, the subject firearm, and the ammunition; (5) the subject firearm and ammunition, as well as the person of the accused, were turned over to him during the investigation; and (6) he had no personal knowledge

²² *Id.* at 11.

²³ *Id.* at 12; TSN, PO1 Elizardo Reputas, September 10, 2018, p. 18.

²⁴ RTC records, pp. 2-3.

²⁵ *Id.* at 57.

²⁶ *Id.* at 54.

²⁷ TSN, PO3 Jayson Tan, July 2, 2018, p. 21.

of the circumstances leading to the arrest and filing of the Information against the accused and how the object evidence was obtained.²⁸

In contrast, Patotoy denied the accusations against him. He claimed that on April 9, 2018, he was on his way to buy a cigarette from a nearby store along Hermosa Street, Tondo, Manila, when he was suddenly grabbed by a police officer and a civilian who invited him for verification. Patotoy obeyed. Upon arriving at the police station, the police officer showed him a firearm and accused him of owning it. Patotoy denied ownership of the firearm and asserted that it was planted.²⁹

After trial, the RTC rendered its Decision,³⁰ finding Patotoy guilty of violating Section 28(a), in relation to Section 28(e)(1), of Republic Act No. 10591. The decretal portion of the Decision reads:

WHEREFORE, with the foregoing premises, the Court finds the accused, Alfonso Patotoy y Centeno alias “Nonoy,” GUILTY beyond reasonable doubt [of] violation of Sec. 28 (a) in relation to Sec. 28 (e-1) of R.A. 10591 and he is hereby SENTENCED to suffer the indeterminate penalty of 8 years and 8 months, as minimum penalty, to 10 years, 8 months and 1 day of *prision mayor*, as maximum penalty.

SO ORDERED.³¹

In convicting Patotoy, the RTC gave significant weight to the testimonies of PO3 Tan and PO1 Reputas, alongside the supporting evidence, in upholding the legality of Patotoy’s warrantless arrest and the subsequent search. It determined that the prosecution had adequately demonstrated that Patotoy was drinking beer in a public place, in violation of Manila City Ordinance No. 5555. The RTC, therefore, admitted the seized evidence and rejected Patotoy’s claim that the firearm had been planted.³²

Disgruntled, Patotoy appealed the case to the CA.³³

In its Decision,³⁴ the CA upheld Patotoy’s conviction, as follows:

WHEREFORE, premises considered, the instant *Appeal* is DENIED. The assailed *Decision* dated March 29, 2019 of the RTC, Branch 28 of Manila in Criminal Case No. R-MNL-18-03688-CR finding accused-appellant Alfonso Patotoy y Centeno @ “Nonoy” guilty beyond reasonable

²⁸ TSN, PO1 Elizardo Reputas, September 10, 2018, p. 18.

²⁹ TSN, Alfonso C. Patotoy, January 21, 2019, pp. 3–8.

³⁰ *Rollo*, pp. 67–75.

³¹ *Id.* at 74–75.

³² *Id.* at 71–72.

³³ *Id.* at 55–66.

³⁴ *Id.* at 34–45.

doubt of Violation of Section 28 (a) in relation to Section 28 (e-1) of R.A. No. 10591 is AFFIRMED.

SO ORDERED.³⁵

Similarly, the CA sustained the legality of Patotoy's warrantless arrest. It underscored that a person lawfully arrested may be searched for dangerous weapons or anything that may have been used or constitute proof in the commission of an offense without a search warrant. The CA held that PO1 Reputas acted within the confines of the law when he frisked Patotoy. As a result, it concluded that Patotoy was validly caught *in flagrante delicto* in the possession of an unlicensed firearm.³⁶

Patotoy moved for reconsideration,³⁷ but was denied by the CA in a Resolution.³⁸ Hence, Patotoy filed the instant Petition.

In this case, Patotoy essentially argues that the prosecution failed to prove the validity of the warrantless arrest and the subsequent search conducted by the police officers. He claims that the evidence obtained from him should be considered inadmissible in court. Patotoy further asserts that the prosecution failed to establish the essential elements of the crime charged, as well as the identity of the subject firearm and ammunition.³⁹

Conversely, the Office of the Solicitor General (OSG) contended in their Comment⁴⁰ that Patotoy did not raise the issue of the legality of his warrantless arrest prior to his arraignment. They pointed out that Patotoy is challenging this for the first time in the current Petition. Also, it was their position that because Patotoy did not dispute the validity of his warrantless arrest before his arraignment, he effectively waived his right to challenge the same. Consequently, the search incidental to such arrest, which subsequently led to the discovery of the subject firearm, should likewise be deemed valid.⁴¹

In a Resolution,⁴² this Court *En Banc* required the OSG to provide a certified true copy of Manila City Ordinance No. 5555. In compliance, the OSG promptly submitted a certified photocopy of the subject ordinance.⁴³

Accordingly, the issue for this Court's resolution is whether the CA erred in affirming the conviction of petitioner Alfonso C. Patotoy for violation of Section 28(a), in relation to Section 28(e)(1), of Republic Act No. 10591.

³⁵ *Id.* at 44–45.

³⁶ *Id.* at 39.

³⁷ *Id.* at 100–108.

³⁸ *Id.* at 47–53.

³⁹ *Id.* at 18.

⁴⁰ *Id.* at 145–160.

⁴¹ *Id.* at 148.

⁴² *Id.* at 170–171.

⁴³ *Id.* at 186–193.

This Court's Ruling

The Petition is denied.

Prefatorily, it is settled that an appeal in criminal cases opens the entire case for review, enabling the appellate court to rectify errors, regardless of whether these were assigned in the appealed judgment, or to overturn the trial court's decision on grounds other than those raised by the parties.⁴⁴ In essence, "[t]he appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law."⁴⁵ In scrutinizing criminal convictions, it is crucial that "the appellate court must[,] at all times[,] ensure that the fundamental rights of the accused remain protected, and never jeopardized."⁴⁶ As such, this Court is not precluded from reevaluating matters, including the admissibility of the evidence despite belated objections, to achieve a just resolution of the case.⁴⁷

In the same vein, this Court finds it imperative to reiterate the fundamental principle of the presumption of innocence enshrined in our Constitution. Article III, Section 14(2) of the Constitution explicitly states that an accused shall be presumed innocent until proven otherwise. In connection with this, Rule 133, Section 2 of the Rules of Court provides that in criminal cases, the accused is entitled to an acquittal unless their guilt is proven beyond reasonable doubt. In *Villarosa v. People*,⁴⁸ We expounded on these principles:

Moreover, it bears to reiterate that an accused has in his/her favor the presumption of innocence which the Bill of Rights guarantees. Unless his/her guilt is shown beyond reasonable doubt, he/she must be acquitted. This reasonable doubt standard is demanded by the due process clause of the Constitution, which protects the accused from conviction except upon proof beyond reasonable doubt of every fact necessary to constitute the crime with which he is charged. The burden of proof is on the prosecution, and unless it discharges that burden the accused need not even offer evidence in his/her behalf, and he/she would be entitled to an acquittal. Proof beyond reasonable doubt does not, of course, mean such degree of proof as, excluding the possibility of error, produce absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind. The conscience must be satisfied that the accused is responsible for the offense charged.⁴⁹ (Citation omitted)

⁴⁴ *People v. Alejandro*, 807 Phil. 221, 229 (2017) [Per J. Perlas-Bernabe, First Division].

⁴⁵ *People v. Acosta*, 846 Phil. 198, 203 (2019) [Per J. Perlas-Bernabe, Second Division].

⁴⁶ *Remolano v. People*, 912 Phil. 931, 939 (2021) [Per J. Lazaro-Javier, First Division].

⁴⁷ *See Epifanio v. People*, 552 Phil. 620, 628 (2007) [Per J. Austria-Martinez, Third Division].

⁴⁸ 875 Phil. 270 (2020) [Per C.J. Peralta, *En Banc*].

⁴⁹ *Id.* at 305–306.

Corollarily, in *People v. Godoy*,⁵⁰ this Court elucidated the purpose behind this presumption, putting emphasis on the underlying disparity in resources between the State and the accused:

The presumption of innocence, on the other hand, is founded upon the first principles of justice, and is not a mere form but a substantial part of the law. It is not overcome by mere suspicion or conjecture; a probability that the defendant committed the crime; nor by the fact that he had the opportunity to do so. *Its purpose is to balance the scales in what would otherwise be an uneven contest between the lone individual pitted against the People and all the resources at their command.* Its inexorable mandate is that, for all the authority and influence of the prosecution, the accused must be acquitted and set free if his guilt cannot be proved beyond the whisper of a doubt. This is in consonance with the rule that conflicts in evidence must be resolved upon the theory of innocence rather than upon a theory of guilt when it is possible to do so.⁵¹ (Emphasis supplied, citations omitted)

In *Macayan, Jr. v. People*,⁵² this Court further stressed the importance of the prosecution's duty to establish the accused's guilt beyond reasonable doubt and the ramifications of their inability to do so. We likewise underscored that a conviction must be based on the strength of the prosecution's evidence and not on the weakness of the defense, in this wise:

This rule places upon the prosecution the task of establishing the guilt of an accused, relying on the strength of its own evidence, and not banking on the weakness of the defense of an accused. Requiring proof beyond reasonable doubt finds basis not only in the due process clause of the Constitution, but similarly, in the right of an accused to be "presumed innocent until the contrary is proved." "Undoubtedly, it is the constitutional presumption of innocence that lays such burden upon the prosecution." Should the prosecution fail to discharge its burden, it follows, as a matter of course, that an accused must be acquitted[.]⁵³ (Citations omitted)

Simply put, every accused shall be presumed innocent unless their guilt is proven beyond reasonable doubt.⁵⁴ This presumption persists until the judgment of conviction becomes final.⁵⁵ Significantly, the accused need not do anything to maintain this presumption.⁵⁶ To recapitulate, this rule stemmed from the necessity to strike a fair balance between the State's extensive power to prosecute and the defense's arduous struggle for liberty, recognizing the inherent inequality in resources, capacity, influence, and power between the state and an accused.⁵⁷ Thus, the burden of establishing the accused's guilt

⁵⁰ 321 Phil. 279 (1995) [Per J. Regalado, *En Banc*].

⁵¹ *Id.* at 341.

⁵² 756 Phil. 202 (2015) [Per J. Leonen, Second Division].

⁵³ *Id.* at 213.

⁵⁴ *People v. Racho*, 640 Phil. 669, 675 (2010) [Per J. Nachura, Second Division].

⁵⁵ *Mangubat v. Sandiganbayan*, 220 Phil. 392, 395 (1985) [Per J. Relova, *En Banc*].

⁵⁶ *Polangcos v. People*, 862 Phil. 764, 778 (2019) [Per J. Caguioa, Second Division].

⁵⁷ *People v. Saragena*, 817 Phil. 117, 128 (2017) [Per J. Leonen, Third Division], citing *People v. Berroya*, 347 Phil. 410, 423 (1997) [Per J. Romero, Third Division].

lies squarely with the prosecution.⁵⁸ It is the prosecution that has the sole burden of proving all the elements of the offense charged.⁵⁹

In this case, it must be recalled that petitioner was charged with the crime of illegal possession of firearm and ammunition. Consequently, the prosecution must establish the following elements: (1) the existence of the subject firearm; and (2) the fact that the accused who possessed or owned the firearm does not have the corresponding license for it. The *corpus delicti* of illegal possession of firearms “lies not in the act of possession, which is permissible under the law, but rather in the accused’s lack of license or permit to possess or carry the firearm.”⁶⁰ Strikingly, if the firearm is loaded with ammunition, the penalty is increased one degree higher.⁶¹

At this stage, it is worth highlighting that petitioner’s conviction before the courts *a quo* largely hinged on their determination that the subject firearm seized during the warrantless search is both admissible and sufficient to prove his guilt beyond reasonable doubt. Hence, the crux of this case revolves around the question of whether the subject firearm is admissible in evidence.

Pertinently, Article III, Section 2 of the Constitution ensures a person’s right to be secured against unreasonable searches and seizures, as follows:

Section 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

In *People v. Rangaig*,⁶² We explained that the above provision serves as a bulwark against unlawful intrusions into a person’s privacy, security, and property—requiring the issuance of a valid judicial warrant before conducting any arrest, search, or seizure:

This constitutional provision prevents violations of privacy and security in person and property, and protects against “unlawful invasion of the sanctity of the home, by officers of the law acting under legislative or judicial sanction, and to give remedy against such usurpations when attempted.” Thus, in conducting an arrest or search and seizure, there must be a warrant hinged on probable cause or the “actual belief or reasonable grounds of suspicion to believe that the accused has committed, or is

⁵⁸ *People v. Asis*, 439 Phil. 707, 728 (2002) [Per J. Panganiban, *En Banc*].

⁵⁹ *People v. Villoria*, 935 Phil. 687, 721 (2023) [Per J. J. Lopez, Second Division].

⁶⁰ *People v. Dalisay*, 946 Phil. 102, 116 (2023) [Per J. Caguioa, Third Division]. (Citation omitted)

⁶¹ *Castil v. People*, 925 Phil. 786, 796 (2022) [Per J. Hernandez, First Division].

⁶² 901 Phil. 390 (2021) [Per J. Leonen, Third Division].

committing a crime.” The suspicion must be “supported by circumstances sufficiently strong in themselves to warrant a cautious man to believe that the person accused is guilty of the offense with which he is charged.” Any evidence resulting from a violation of a person’s right against unreasonable searches and seizures will be deemed inadmissible in court.⁶³ (Citations omitted)

Accordingly, the general rule is that no arrest, search, or seizure can take place without a valid warrant issued by a competent judicial authority.⁶⁴ It requires that: (1) the warrant be issued based on a determination of probable cause; (2) the probable cause must be determined personally by the judge; (3) the judge must examine under oath or affirmation the complainant and the witnesses produced; and (4) the warrant must particularly describe the place to be searched and the persons or things to be seized.⁶⁵ Failure to meet these requisites would render the arrest, search, or seizure “unreasonable” within the contemplation of Article III, Section 2 of the Constitution.⁶⁶

Verily, the right to be secured against unreasonable searches and seizures is sacrosanct.⁶⁷ Given its significance, courts should be vigilant in safeguarding this right from any form of curtailment and should rigorously uphold the prescribed safeguards for its protection.⁶⁸ In *People v. Manago*,⁶⁹ this Court markedly held that evidence acquired in breach of this right would be deemed inadmissible, as it is akin to reaping fruit from a poisonous tree:

To protect the people from unreasonable searches and seizures, Section [3(2)], Article III of the 1987 Constitution provides that evidence obtained and confiscated on the occasion of such unreasonable searches and seizures are deemed tainted and should be excluded for being the proverbial fruit of a poisonous tree. In other words, evidence obtained from unreasonable searches and seizures shall be inadmissible in evidence for any purpose in any proceeding.⁷⁰

In short, this principle, also known as the exclusionary rule, mandates that evidence obtained through an unlawful search should be excluded and considered inadmissible in court, as it is the only practical means to enforce the constitutional proscription against unreasonable searches and seizures.⁷¹

Nonetheless, this rule admits of exceptions, specifically: (1) search incidental to a lawful arrest; (2) seizure of evidence in plain view; (3) search

⁶³ *Id.* at 404.

⁶⁴ *Id.*

⁶⁵ *Abiang v. People*, 949 Phil. 361, 369 (2023) [Per J. Lazaro-Javier, Second Division].

⁶⁶ *See Ambre v. People*, 692 Phil. 681, 692-693 (2012) [Per J. Mendoza, Third Division].

⁶⁷ *People v. Dalisay*, 946 Phil. 102, 112 (2023) [Per J. Caguioa, Third Division].

⁶⁸ *Ogayon v. People*, 768 Phil. 272, 283 (2015) [Per J. Brion, Second Division].

⁶⁹ 793 Phil. 505 (2016) [Per J. Perlas-Bernabe, First Division].

⁷⁰ *Id.* at 514-515.

⁷¹ *People v. Cogaed*, 740 Phil. 212, 241 (2014). [Per J. Leonen, Third Division].

9

of moving vehicles; (4) consented warrantless search; (5) customs search; (6) stop and frisk situations; and (7) exigent and emergency circumstances.⁷²

Here, it bears repeating that the prosecution claimed that the seized evidence was admissible in court as it was a product of a search incidental to a lawful arrest.⁷³ In correlation to this, Rule 126, Section 13 of the Rules of Court establishes the basis for a search incidental to a lawful arrest, thus:

Section 13. *Search incidental to lawful arrest.* — A person lawfully arrested may be searched for dangerous weapons or anything which may have been used or constitute proof in the commission of an offense without a search warrant.

In addition, this Court clarified in *Vaporoso v. People*⁷⁴ the rationale behind permitting such mode of warrantless search, as follows:

The purpose of allowing a warrantless search and seizure incident to a lawful arrest is to protect the arresting officer from being harmed by the person arrested, who might be armed with a concealed weapon, and to prevent the latter from destroying evidence within reach. It is therefore a reasonable exercise of the State's police power to protect: (a) law enforcers from the injury that may be inflicted on them by a person they have lawfully arrested; and (b) evidence from being destroyed by the arrestee. It seeks to ensure the safety of the arresting officers and the integrity of the evidence under the control and within the reach of the arrestee.⁷⁵ (Citation omitted)

It must be emphasized that such warrantless search mandates the occurrence of a preceding lawful arrest before the corresponding search can be conducted. This sequence cannot be reversed.⁷⁶ We amply explained this in *Malacat v. Court of Appeals*:⁷⁷

In a search incidental to a lawful arrest, as the precedent arrest determines the validity of the incidental search, the legality of the arrest is questioned in a large majority of these cases, e.g., whether an arrest was merely used as a pretext for conducting a search. In this instance, the law requires that there first be a lawful arrest before a search can be made — the process cannot be reversed. At bottom, assuming a valid arrest, the arresting officer may search the person of the arrestee and the area within which the latter may reach for a weapon or for evidence to destroy, and seize any money or property found which was used in the commission of the crime, or the fruit of the crime, or that which may be used as evidence, or which might furnish the arrestee with the means of escaping or committing violence.⁷⁸ (Citations omitted)

⁷² *Dominguez v. People*, 849 Phil. 610, 622–623 (2019) [Per J. Caguioa, Second Division].

⁷³ *Rollo*, p. 148.

⁷⁴ 852 Phil. 508 (2019) [Per J. Perlas-Bernabe, Second Division].

⁷⁵ *Id.* at 521.

⁷⁶ *Sindac v. People*, 794 Phil. 421, 428 (2016) [Per J. Perlas-Bernabe, First Division].

⁷⁷ 347 Phil. 462 (1997) [Per J. Davide, Jr., *En Banc*].

⁷⁸ *Id.* at 480.

Therefore, to ascertain the admissibility of the evidence seized from petitioner, We must first determine whether the warrantless arrest conducted upon him was lawful to begin with.

However, before proceeding further, We must first address the argument of the prosecution that petitioner is estopped from challenging the validity of his warrantless arrest given his failure to question this before his arraignment. Thus, the prosecution claimed that the search incidental to such arrest should be recognized as valid.⁷⁹

We disagree with the prosecution's contentions.

Concededly, this Court has held that a warrantless arrest does not amount to a jurisdictional defect and any objection against it is considered waived when the arrested individual undergoes arraignment without raising the issue through a proper motion to quash.⁸⁰

Nonetheless, it is crucial to underscore that this waiver solely pertains to the court's jurisdiction over the person of the accused. It is settled that a waiver of an illegal warrantless arrest does not equate to waiving the inadmissibility of evidence seized during such arrest.⁸¹ The "[j]urisdiction over the person of an accused and the constitutional inadmissibility of evidence are separate and mutually exclusive consequences of an illegal arrest."⁸² In *Dominguez v. People*,⁸³ this Court elaborated on this matter:

Well settled is the rule that an accused is estopped from assailing the legality of his arrest if he failed to move to quash the information against him before his arraignment. Any objection involving the arrest or the procedure in the acquisition by the court of jurisdiction over the person of an accused must be made before he enters his plea, otherwise, the objection is deemed waived. Even in the instances not allowed by law, a warrantless arrest is not a jurisdictional defect, and objection thereto is waived where the person arrested submits to arraignment without objection.

Applying the foregoing, the Court agrees that Dominguez had already waived his objection to the validity of his arrest. However, it must be stressed that such waiver *only affects the jurisdiction of the court over the person of the accused but does not carry a waiver of the admissibility of evidence*, as the Court ruled in *Homar v. People*:

We agree with the respondent that the petitioner did not timely object to the irregularity of his arrest before his arraignment as required by the Rules. In addition, he actively participated in the trial of the case. As a result, the petitioner

⁷⁹ *Rollo*, p. 148.

⁸⁰ *Largo v. People*, 854 Phil. 144, 153 (2019) [Per J. Lazaro-Javier, Second Division].

⁸¹ *Homar v. People*, 768 Phil. 195, 209 (2015) [Per J. Brion, Second Division].

⁸² *Veridiano v. People*, 810 Phil. 642, 654 (2017) [Per J. Leonen, Second Division].

⁸³ 849 Phil. 610 (2019) [Per J. Caguioa, Second Division].

is deemed to have submitted to the jurisdiction of the trial court, thereby curing any defect in his arrest.

However, this waiver to question an illegal arrest only affects the jurisdiction of the court over his person. It is well-settled that a waiver of an illegal, warrantless arrest does not carry with it a waiver of the inadmissibility of evidence seized during an illegal warrantless arrest.⁸⁴ (Emphasis supplied, citations omitted)

Returning to the main issue, Rule 113, Section 5 of the Rules of Court provides for the instances in which a warrantless arrest may be lawfully carried out, thus:

Section 5. *Arrest Without Warrant; When Lawful.* — A peace officer or a private person may, without a warrant, arrest a person:

(a) *When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;*

(b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.⁸⁵ (Emphasis supplied)

Relevantly, for an *in flagrante delicto* arrest or an arrest made under Rule 113, Section 5(a) to be valid, two requisites must be met: (1) the person to be arrested must execute an overt act indicating that he has just committed, actually committing, or is attempting to commit a crime; and (2) such overt act is done in the presence or within the view of the arresting officer.⁸⁶

It is also imperative that the arresting officer must have been motivated by probable cause to arrest the individual caught.⁸⁷ This Court has defined probable cause as “the existence of such facts and circumstances which would lead a reasonably discreet and prudent [individual] to believe that an offense has been committed[.]”⁸⁸ Stated differently, it necessitates “a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious [person’s] belief that the person accused is guilty of the offense with which [he/she] is charged.”⁸⁹

⁸⁴ *Id.* at 620–621.

⁸⁵ RULES OF COURT, Rule 113, sec. 5.

⁸⁶ *People v. Jumarang*, 928 Phil.27 , 32 (2022) [Per J. J. Lopez, Second Division]. (Citation omitted)

⁸⁷ *Macad v. People*, 838 Phil. 102, 120 (2018) [Per J. Gesmundo, Third Division].

⁸⁸ *People v. Maderazo*, 845 Phil.22 3, 238 (2018) [Per J. Peralta, Third Division].

⁸⁹ *Martinez v. People*, 703 Phil. 609 , 618 (2013) [Per J. Perlas-Bernabe, Second Division].

9

To recall, the prosecution asserted that the warrantless arrest of petitioner was valid as he was caught *in flagrante delicto* drinking beer in a public place, in violation of Manila City Ordinance No. 5555.

At this juncture, We draw attention to the case of *People v. Cristobal*.⁹⁰ In that case, Cristobal was caught riding a motorcycle without a helmet and was unable to present the necessary documents of the vehicle—which are violations punishable by fines. Cristobal was afterwards frisked for deadly weapons, which yielded nothing. However, the arresting officer noticed a bulge in Cristobal’s pocket and ordered him to remove what was inside, revealing a small plastic bag containing seven sachets of *shabu*. Cristobal was then convicted of illegal possession of dangerous drugs. In resolving the case, this Court emphasized that *there can be no lawful arrest and, therefore, no search incidental to a lawful arrest, if the violations committed are solely punishable by fine*.⁹¹ Thus, Cristobal was acquitted. We ruled in this manner:

Stated simply, the police officers involved in this case conducted an illegal search when they frisked Cristobal on the basis of the foregoing violations. It was not, as it could not have been, even believing the story of the police officers, a search incidental to a lawful arrest as there was no, as there could not have been any, lawful arrest to speak of.

In the case of *Luz vs. People*, a case strikingly similar to the present case, a man who was driving a motorcycle was flagged down for *violating a municipal ordinance requiring drivers of motorcycles to wear a helmet*. While the police officer was issuing him a ticket, the officer noticed that the man was uneasy and kept touching something in his jacket. When the officer ordered the man to take the thing out of his jacket, it was discovered that it was a small tin can which contained sachets of *shabu*. When the man was prosecuted for illegal possession of dangerous drugs, the Court acquitted the accused as the confiscated drugs were discovered through an unlawful search. Hence:

We find the Petition to be impressed with merit, but not for the particular reasons alleged. In criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court’s decision based on grounds other than those that the parties raised as errors.

First, there was no valid arrest of petitioner. When he was flagged down for committing a traffic violation, he was not, *ipso facto* and solely for this reason, arrested.

Arrest is the taking of a person into custody in order that he or she may be bound to answer for the commission

⁹⁰ 853 Phil. 352 (2019) [Per J. Caguioa, Second Division].

⁹¹ See *Ridon v. People*, 949 Phil. 1025 (2023) [Per J. M. Lopez, Second Division]; *Balicanta III v. People*, 942 Phil. 694 (2023) [Per SAI. Leonen, Second Division]; *Polangcos v. People*, 862 Phil. 764 (2019) [Per J. Caguioa, Second Division]; *Picardal v. People*, 854 Phil. 575 (2019) [Per J. Caguioa, Second Division]; *Mendoza v. People*, 843 Phil. 881 (2018) [Per J. A. Reyes, Jr., Second Division]; *Luz v. People*, 683 Phil. 399 (2012) [Per J. Sereno, Second Division].

of an offense. It is effected by an actual restraint of the person to be arrested or by that person's voluntary submission to the custody of the one making the arrest. Neither the application of actual force, manual touching of the body, or physical restraint, nor a formal declaration of arrest, is required. It is enough that there be an intention on the part of one of the parties to arrest the other, and that there be an intent on the part of the other to submit, under the belief and impression that submission is necessary.

Under R.A. 4136, or the Land Transportation and Traffic Code, the general procedure for dealing with a traffic violation is not the arrest of the offender, but the confiscation of the driver's license of the latter.

[. . .]

It also appears that, according to City Ordinance No. 98-012, which was violated by petitioner, the failure to wear a crash helmet while riding a motorcycle is penalized by a fine only. Under the Rules of Court, a warrant of arrest need not be issued if the information or charge was filed for an offense penalized by a fine only. It may be stated as a corollary that neither can a warrantless arrest be made for such an offense.

The case of *Luz* squarely applies in the present case. *There was similarly no lawful arrest in this case as Cristobal's violations were only punishable by fine.* There was thus no valid search incidental to a lawful arrest.⁹² (Emphasis supplied, citations omitted)

Similarly, in *Picardal v. People*,⁹³ this Court reiterated the same principle. In said case, Picardal was arrested for urinating in public—an offense punishable solely by a fine. Following his arrest, a search was conducted which led to the discovery of an unlicensed firearm. Picardal was later convicted of qualified illegal possession of firearm. However, when the case reached this Court, We overturned his conviction and ruled that the seized evidence was a product of an unlawful search. This Court stressed that since Picardal's violation was punishable only by a fine, there was no basis for his arrest. Consequently, the ensuing search likewise had no basis.

Also, in the recent case of *Ridon v. People*,⁹⁴ We highlighted that “violating ordinances and regulations alone is insufficient to trigger a valid warrantless search and seizure, especially when the penalty does not involve imprisonment.”⁹⁵ In that case, Ridon was pursued by the police officers after being caught entering a one-way street against the flow of traffic. Upon being cornered and frisked, he was found to be in possession of a .38 caliber revolver loaded with six ammunition. Ridon was subsequently convicted of illegal

⁹² *People v. Cristobal*, 853 Phil.3521, 361–362 (2019) [Per J. Caguioa, Second Division].

⁹³ 854 Phil. 575 (2019) [Per J. Caguioa, Second Division].

⁹⁴ 949 Phil. 1025 (2023) [Per J. A. Lopez, Second Division].

⁹⁵ *Id.* at 1034.

possession of firearm and ammunition. In exonerating Ridon, this Court held that the mere violation of traffic rules would not justify a warrantless arrest. As a result, any evidence obtained incidental to such arrest is inadmissible.

In contrast to the previous cases, however, the present matter is markedly different. Significantly, Manila City Ordinance No. 5555 imposes both a fine and imprisonment for the consumption of beer, liquor, or alcoholic beverages in public places. This is clearly specified in Sections 2 and 4 of the subject Ordinance, which pertinently read:

SEC. 2. The drinking of beer, liquor or alcoholic beverages of any kind in sari-sari stores or similar establishments not licensed as restaurant, panciteria, carinderia, hotel or bar, as well as in the street, by the sidewalk, in an alley, whether public or private, and in a park or in a plaza, is also hereby prohibited.

....

SEC. 4. Any person violating the provision of Section 1 of this Ordinance shall, upon conviction thereof, be punished by a fine of Two Hundred Pesos ([PHP]200.00) or by imprisonment for a minimum of two (2) months but not exceeding six (6) months: PROVIDED, HOWEVER, That *those violating the provision of Section 2 hereof shall, likewise upon conviction thereof, be punished by a fine of not less than Fifty Pesos ([PHP]50.00) nor more than One Hundred Pesos ([PHP]100.00) and by imprisonment for not less than fifteen (15) days but not more than six (6) months.* In cases of establishments, the owners, proprietors, managers and/or persons in charge thereof, shall be liable therefor. In addition to the above penalty, there shall be an automatic revocation of the licenses for the said establishments.⁹⁶ (Emphasis supplied)

In this instance, the records are replete in showing that petitioner was caught *in flagrante delicto* drinking Red Horse beer in a public place. This is substantiated by the testimonies of PO3 Tan and PO1 Reputas, as well as the Commitment Certificate, which confirms Patotoy's positive alcohol breath test result. We quote the relevant portions of PO1 Reputas's testimony:

Fiscal Villanueva:

Q: So, Mr. Police Officer, on April 9, 2018, do you recall where you were?

A: At Hermosa, PCP, Ma'am.

Q:

So, you reported for duty at Hermosa PCP. What was your tour of duty then?

A: 7 a.m. to 7 p.m.

....

⁹⁶ Rollo, p. 190.

- Q: So, while you were at your PCP and while you were on duty, do you recall what transpired?
- A: Yes, Ma'am.
- Q: Can you please tell this Honorable Court, what happened while you were on duty?
- A: We effected the arrest of one Alfonso Patotoy.
- Q: Prior to the arrest of one Alfonso Patotoy, by the way, what made you effect the arrest of one Alfonso Patotoy?
- A: Violation of [Manila City Ordinance No. 5555] and [Republic Act No.] 10591.
- Q: How did you know that he was violating [Manila City Ordinance No. 5555]?
- A: We conducted [an] [a]nti-criminality campaign, Ma'am, within our AOR. Then, we saw Alfonso Patotoy drinking one (1) bottle of Red Horse 500 ml.
- Q: So, at that time, you were conducting a routinary patrol?
- A: Yes, Ma'am.
- Q: Within your area of responsibility, correct?
- A: Yes, Ma'am.
- Q: So, when you saw Alfonso Patotoy drinking, what did you say?

The Court: Red Horse.

Fiscal Villanueva

- Q: Red Horse beer?
- A: Yes, Ma'am.

.....

- Q: Where did you see him drinking Red Horse [b]eer?
- A: At Hermosa St., Ma'am, along [the] railroad.

.....

- Q: Tondo, Manila. So, when you saw him drinking Red Horse [b]eer, what did you do, Mr. Witness?
- A: PO3 Tan confiscated the Red Horse, Ma'am, and he informed him of his right, Ma'am.
- Q: And after Police Officer Tan confiscated this Red Horse [b]eer, what else happened?
- A: When PO3 Tan took the Red Horse [b]eer, Ma'am, I frisked the accused.
- Q: Okay. What was the result of this frisking by you to the person of the accused?
- A: I recovered, Ma'am, one revolver, Ma'am.
- Q: And when you recovered a revolver, what else, if any, did you recover from him while you were frisking him?



- A: No other, Ma'am. But when I checked the cylinder of the gun, I saw five (5) loaded ammunitions.
- Q: So, after you have frisked him and confiscated this gun with five (5) ammunitions, what else happened after that?
- A: I informed him again of his violations and his rights.
- Q: After telling him his violations and his rights, what happened next?
- A: We brought him for medical examination.⁹⁷

This is further corroborated by PO3 Tan's testimony, as follows:

ACP Principe

- Q: Mr. Witness, before the incident on April 9, 2018 before 5:00 in the afternoon, where were you and what are you doing at that time?
- A: On that time, [S]ir, we're conducting anti-criminality along Hermosa, railroad track.
- Q: Now, Mr. Witness, while you were conducting the anti-criminality, what happened there, if any?
- A: We saw Alfonso Patotoy [y] Centeno.
- Q: Where, where did you [see] him?
- A: We saw the accused Alfonso Patotoy [y] Centeno holding a bottle and drinking it, [S]ir, and then we approached him and informed of his violation.
-
- [Q:] What is this bottle[?]
- A: Bottle of Red Horse beer, [S]ir.
-
- Q: After recovering this bottle of Red Horse that you marked as "APC-6" in the precinct, what did you do next to the accused after arresting him for violation of [Manila City Ordinance No. 5555]?
- A: We brought the accused to Tondo Hospital for medical.⁹⁸

From the foregoing, this Court is convinced that petitioner committed the overt act of drinking a bottle of Red Horse beer in a public place while in the presence or within the immediate view of the arresting officers who were conducting their patrol in the vicinity. The fact that he tested positive on the alcohol breath test further bolsters this conclusion. Hence, the courts *a quo* correctly determined that petitioner was lawfully arrested for violating Manila City Ordinance No. 5555. In this regard, it is worth reiterating that a person lawfully arrested may be searched for evidence or weapons without the need for a warrant.⁹⁹ Here, following petitioner's arrest, PO1 Reputas conducted a

⁹⁷ TSN, PO1 Elizardo Reputas, September 10, 2013, pp. 5-7.

⁹⁸ TSN, PO3 Jayson Tan, July 23, 2018, pp. 7-10.

⁹⁹ RULES OF COURT, Rule 126, sec. 13.

search that led to the discovery of the subject firearm and ammunition. In light of the prior lawful arrest, We uphold the validity of the subsequent search.

Accordingly, the pieces of evidence obtained from petitioner, such as the .38 caliber pistol with the label "APC" and the five live ammunition with the labels "APC-1" to "APC-5," are admissible in court. It is also significant to point out that the prosecution had identified these in open court as the items taken from petitioner.¹⁰⁰ It likewise merits attention that the prosecution was able to present a Certification¹⁰¹ from the FEO, indicating that petitioner had no license for the firearm and ammunition.

Given the preceding discussion, this Court finds that both elements of illegal possession of firearm and ammunition are present in this case.

Contrastingly, petitioner claims that when the Information was filed against him, the police officers had not yet obtained a certification from the FEO that he is not a licensed firearm holder of any kind and caliber and is not authorized to possess the same under their records.¹⁰² Petitioner argues that such omission constitutes a breach of Department of Justice (DOJ) Circular No. 067,¹⁰³ which requires that a copy of the original negative certification be submitted to the prosecutor before the arraignment of the accused.

Petitioner's argument is without merit.

We quote with affirmation the pronouncements of the CA, *viz.*:

Clearly, the aforementioned DOJ Circular is an internal matter issued well within the administrative power and control of the Secretary of Justice. It is not in the nature of implementing rules issued by an administrative agency, which would have the force and effect of law. Furthermore, nowhere in the said DOJ Circular does it prohibit prosecutors from filing the Information without first securing the PNP-FEO negative certification. The scope and purpose of the said Circular was to simply

¹⁰⁰ TSN, POI Elizardo Reputas, September 10, 2018, pp. 8-12.

¹⁰¹ RTC records, p. 54.

¹⁰² *Rollo*, p. 26.

¹⁰³ DOJ Circular No. 067 (2013), Additional Guidelines in the Disposition of Inquest Cases Involving Violations of P.D. 1866, as amended by R.A. 8294.

[A]ll prosecutors are hereby directed:

- a) *TO ACCEPT* the electronic copy of the negative certification of the PNP-Firearms and Explosives Office (which states/confirms that respondent/s do not have a license to possess and transport a firearm) *AS SUFFICIENTEY IDENCIE* to warrant the filing of a case for violation of P.D. 1866, as amended by R.A. 8294, provided that:
 - a.1 It is *CERTIFIED* by the Chief of the Issuing Office (Regional, Provincial Director/Chief of Police/Station Commander) to attest its veracity, and
 - a.2 *A copy of the original negative certification is submitted to the prosecutor BEFORE the arraignment of the accused.* (Emphasis supplied)

9

address the practice of some prosecutors who refuse to accept electronic copies of the negative certification issued by the PNP-FEO.¹⁰⁴

Indeed, a cursory reading of DOJ Circular No. 067 would reveal that its main purpose is to streamline the filing and prosecution of cases for violations of the firearms law. It sets forth guidelines aimed at the effective resolution of cases under Republic Act No. 10591. Failing to adhere to these guidelines, however, would not impact the admissibility of evidence or absolve the accused of any liability. It also bears stressing that the negative certification from the FEO is neither an element of the crime of illegal possession of firearms nor an indispensable condition for a successful prosecution of this crime. After all, the gravamen of illegal possession of firearm is the lack of permit or license to possess or carry the firearm.¹⁰⁵

Petitioner also asserts that the prosecution failed to demonstrate an unbroken chain of custody and comply with Item 2.2.3(e) of the PNP Criminal Investigation Manual¹⁰⁶ (PNP Manual), casting doubts on the integrity of the seized evidence. He insists that the chain of custody rule should apply.¹⁰⁷

Once again, petitioner's argument fails.

Significantly, this Court has already held in *People v. Olarte*¹⁰⁸ that the chain of custody rule does not apply to crimes involving illegal possession of firearm and ammunition. We emphasized that when the evidence submitted is "unique, readily identifiable, and relatively resistant to change, that foundation need only consist of testimony by a witness with knowledge that the evidence is what the proponent claims[,]"¹⁰⁹ thus:

Historically, the Court has applied the "chain of custody" rule as a mode of authenticating illegal drug substances in order to determine its admissibility. However, *such rule has not yet been extended to other substances or objects for it is only a variation of the principle that real evidence must be authenticated prior to its admission into evidence.* At this point, it becomes necessary to point out that the degree of fungibility of amorphous objects without an inherent unique characteristic capable of

¹⁰⁴ *Rollo*, p. 50.

¹⁰⁵ *People v. Dalisay*, 946 Phil. 102, 116 (2023) [Per J. Caguioa, Third Division].

¹⁰⁶ PNP Criminal Investigation Manual, 2.2.3.(e) Markings of Evidence.

Any physical evidence obtained must be marked or tagged before its submission to the evidence custodian.

These are information to ensure that the items can be identified by the collector at any time in the future. This precaution will help immeasurably to establish the credibility of the collector's report or testimony and will effectively avoid any suggestion that the items has been misidentified.

Markings on the specimen must at least contain the following:

1. Exhibit Case Number
2. Initials and or signature of the collecting officer
3. Time and date of Collection.

NOTE: It is also important to note the place or location where the evidence was collected.

¹⁰⁷ *Rollo*, pp. 22-23.

¹⁰⁸ 848 Phil. 821 (2019) [Per J. Gesmundo, First Division]

¹⁰⁹ *Id.* at 853-854.

scientific determination, *i.e.*, DNA testing, is higher than stably structured objects or those which retain their form because the likelihood of tracing the former objects' source is more difficult, if not impossible. Narcotic substances, for example, are relatively easy to source because they are readily available in small quantities thereby allowing the buyer to obtain them at lower cost or minimal effort. It makes these substances highly susceptible to being used by corrupt law enforcers to plant evidence on the person of a hapless and innocent victim for the purpose of extortion. Such is the reason why narcotic substances should undergo the tedious process of being authenticated in accordance with the chain of custody rule.

In this regard, the Court emphasizes that *if the proffered evidence is unique, readily identifiable, and relatively resistant to change, that foundation need only consist of testimony by a witness with knowledge that the evidence is what the proponent claims; otherwise, the chain of custody rule has to be resorted to and complied with by the proponent to satisfy the evidentiary requirement of relevancy.* And at all times, the source of amorphous as well as firmly structured objects being offered as evidence must be tethered to and supported by a testimony. Here, the determination whether a proper foundation has been laid for the introduction of an exhibit into evidence refits within the discretion of the trial court; and a higher court reviews a lower court's authentication ruling in a deferential manner, testing only for mistake of law or a clear abuse of discretion. In other words, the credibility of authenticating witnesses is for the trier of fact to determine.

In the case at hand, the chain of custody rule does not apply to an undetonated grenade (an object made unique), for it is not amorphous and its form is relatively resistant to change. *A witness of the prosecution need only identify the hand grenade, a structured object, based on personal knowledge that the same contraband or article is what it purports to be — that it came from the person of accused-appellant.*¹¹⁰ (Emphasis supplied, citations omitted)

In the instant case, this Court concurs with the CA that the police officers are not bound to comply with the procedural requirements outlined in the chain of custody rule in dangerous drugs cases, since firearms and ammunition are considered as readily identifiable, or objects made unique.¹¹¹ In addition, We agree with the courts *a quo* that the prosecution adequately preserved the integrity of the seized evidence.

As to the failure to adhere to Item 2.2.3(e) of the PNP Manual, this Court finds that such is not detrimental to this case. Despite this lapse, the seized evidence remains admissible due to substantial compliance with Our pronouncement in *Olarte*. To recapitulate, when the evidence is “unique, readily identifiable, and relatively resistant to change,” *i.e.*, the subject firearm and ammunition, it can be authenticated through the testimony of a witness having personal knowledge that the evidence is what it claims to be and that it originated from the accused.¹¹² “Thus, a testimony showing the handling of

¹¹⁰ *Id.*

¹¹¹ *Rollo*, p. 50.

¹¹² *People v. Olarte*, 848 Phil. 821, 853–854 (2019) [Per J. Gesmundo, First Division].

the firearms and ammunition upon confiscation, turnover to the crime laboratory, and its later identification to the court, [would] suffice.”¹¹³

Here, this Court finds that PO1 Reputas aptly testified on the handling and turnover of the firearms and ammunition and identified the evidence in open court. Once more, We echo the findings of the CA:

In this case, the .38 caliber pistol and its ammunitions were seized by PO1 Reputas. He then marked the same at the nearest police station (Police Station 7). Subsequently, he handed the seized items to PO3 Palma for investigation and photograph-taking. PO1 Reputas then brought the same to [PCINSP] Macagba for ballistic examination on April 10, 2018. The results of the ballistic examination showed that the subject firearm is functional and serviceable. [PCINSP] Macagba then turned over the seized items to the Clerk of Court on July 23, 2018 as shown in the turn-over receipt. PO1 Reputas was able to identify in open court the .38 caliber pistol and five bullets recovered from [Patotoy]. Thus, the prosecution’s evidence constitutes an unbroken chain of custody of the seized items as the .38 caliber pistol and five bullets recovered from [Patotoy] are the very same items that were presented and turned over to the court.

Further, the court *a quo* correctly ruled that PO1 Reputas was able to sufficiently explain the minor lapse in the chain of custody, thus:

Fiscal Villanueva

Q. At the time of the arrest of the accused, what, if any, did you observe at the vicinity?

A. There were people approaching us, ma’am.

Q. What does that imply to you when people are already approaching you?

A. Since it was a crowded area, ma’am, we were not confident, that’s why we decided to mark the evidence at the police station.¹¹⁴ (Citations omitted)

In sum, this Court determines that all the elements of illegal possession of firearm and ammunition have been proven and that the pieces of evidence were lawfully obtained from petitioner through a valid search incidental to a lawful arrest. Thus, We find no reason to reverse the conviction of petitioner.

As for the imposible penalty, the penalty for violation of Section 28(a) of Republic Act No. 10591 is *prision mayor* in its medium period. However, it bears emphasis that the firearm seized from petitioner was loaded with five live bullets. Section 28(e)(1) of the same law provides that the penalty should be a degree higher if the firearm was loaded with ammunition. Hence, the applicable penalty should be *prision mayor* in its maximum period.

¹¹³ *Pablo v. People*, 935 Phil. 132, 150 (2023) [Per J. Kho, Jr., Second Division].

¹¹⁴ *Rollo*, p. 43.

Applying the Indeterminate Sentence Law, the maximum penalty shall not exceed the maximum period provided for by law, which is 10 years and one day to 12 years. On the other hand, the minimum penalty shall not be less than the minimum prescribed by law, which is *prision mayor* in its medium period, or eight years and one day to 10 years.

As a result, the RTC duly imposed the indeterminate sentence of eight years and eight months of *prision mayor*, as minimum, to 10 years, eight months, and one day of *prision mayor*, as maximum. Nonetheless, on February 10, 2025, this Court received a Letter¹¹⁵ from the Bureau of Corrections informing that petitioner Alfonso Patotoy y Centeno @ Nonoy “has already served his maximum sentence[.]”¹¹⁶ With this consideration, petitioner is now entitled to immediate release.

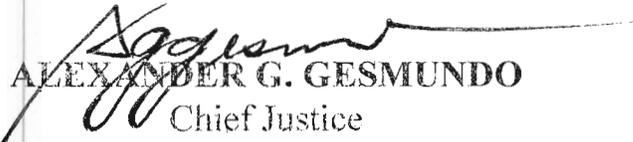
ACCORDINGLY, the Petition for Review on *Certiorari* is **DENIED**. The October 30, 2020 Decision and the October 26, 2021 Resolution of the Court of Appeals in CA-G.R. CR No. 43233 are **AFFIRMED**. Petitioner Alfonso Patotoy y Centeno @Nonoy is **GUILTY** beyond reasonable doubt of violation of Section 28(a), in relation to Section 28(e)(1), of Republic Act No. 10591. He is sentenced to an indeterminate prison term of eight years and eight months, as minimum, to 10 years, eight months, and one day of *prision mayor*, as maximum.

This Court **NOTES** the Letter from the Bureau of Corrections. Due to the service of his sentence, petitioner Alfonso Patotoy y Centeno @Nonoy must be **IMMEDIATELY RELEASED** from custody, unless he is being confined for some legal cause. The Director General of the Bureau of Corrections is **ORDERED to INFORM** the Court of the action hereon within five days upon receipt of this Decision.

SO ORDERED.


JHOSEP Y. LOPEZ
Associate Justice

WE CONCUR:

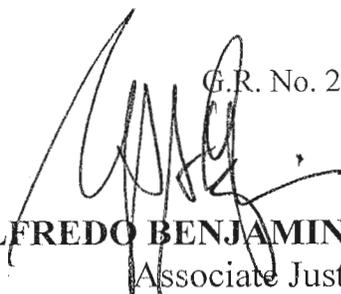

ALEXANDER G. GESMUNDO
Chief Justice

¹¹⁵ *Id.* at 203.

¹¹⁶ *Id.*

So separate opinion in


MARVIC M.A. LEONEN
Senior Associate Justice

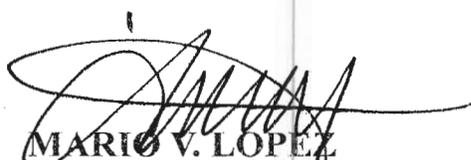

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

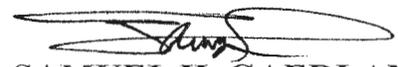

RAMON PAUL L. HERNANDO
Associate Justice

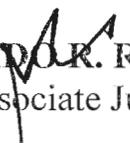

AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


MARIO V. LOPEZ
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


RICARDO R. ROSARIO
Associate Justice

No part
JAPAR B. DIMAAMPAO
Associate Justice

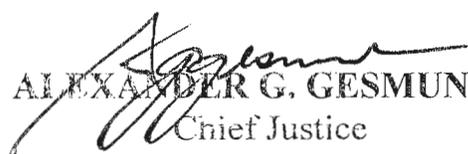

JOSE MIDAS P. MARQUEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice

On Leave
MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.


ALEXANDER G. GESMUNDO
Chief Justice